

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

CHARTER ONE AUTO FINANCE
CORPORATION,

Plaintiff

-VS-

DECISION and ORDER

04-CV-6099-CJS-MWP

NATIONAL VEHICLE IMPORTS, LLC,
d/b/a National Vehicle Imports,

Defendant

This case was referred to Magistrate Judge Marion Payson pursuant to 28 U.S.C. § 636(b)(1), on November 18, 2004. On January 4, 2005, defendant filed a motion asking the Court to abstain from the further exercise of its jurisdiction (# 30). On September 16, 2005, Magistrate Judge Payson filed a report and recommendation recommending that the Court deny defendant's motion (# 30). Neither party has filed an objection as of the date of this decision and order.

Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court accepts in whole Judge Payson's report and recommendation and the defendant's motion (# 30) is hereby denied.

IT IS SO ORDERED.

Dated: October 21, 2005
Rochester, New York

ENTER /s/ Charles J. Siragusa :
CHARLES J. SIRAGUSA
United States District Judge